



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 9, 1998

Ms. Joanne Wright
Associate General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Bldg.
125 E. 11th Street
Austin, Texas 78701-2483

OR98-0639

Dear Ms. Wright:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113329.

The Texas Department of Transportation (the "department") received a request for certain information concerning the planning, study or development of proposed State Highway 45 and proposed "Loop 1 extension" in Williamson County, Texas. Specifically, the requestor seeks information pertaining to caves or other formations on certain property and whether such features form part of the groundwater recharge system in the area; information regarding the location and description of any endangered species or habitat of endangered species found on the property; and communications between the department and representatives of the owner of the property. You assert that the information is excepted from disclosure pursuant to section 552.113 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Section 552.113 provides in relevant part as follows:

- (a) Information is excepted from the requirements of [required public disclosure] if it is:
 - (2) geological or geophysical information or data, including maps concerning wells, except information filed in connection with an application or proceeding before an agency[.]

In Open Records Decision No. 627 (1994), this office concluded that section 552.113(a)(2) protects from public disclosure only (i) geological and geophysical information regarding the exploration or

development of natural resources that is (ii) commercially valuable. Open Records Decision No. 627 (1994) at 3-4 (overruling rationale of Open Records Decision No. 504 (1988)). The decision explained that the phrase "information regarding the exploration or development of natural resources" means "information indicating the presence or absence of natural resources in a particular location, as well as information indicating the extent of a particular deposit or accumulation." *Id.* at 4 n.4. However, section 552.113(a)(2) does not except general geological information about a particular location that is unrelated to the "presence or absence of natural resources."

You argue that "the property in question is operated by a company called Austin White Lime, a white lime supplier, and that specific information on the geological or geophysical makeup of the property could indicate the quantity of available deposits." Although your statement may be true, our review of the information you submitted for review does not reveal any data that would indicate "the presence or absence of natural resources" for the purposes of section 552.113; it is not geological or geophysical information regarding the exploration or development of natural resources. Therefore, we conclude the department may not withhold the requested information under section 552.113(a)(2). As you raise no other exceptions to disclosure, you must release the requested information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 113329

Enclosures: Submitted documents

cc: Mr. John R. Morgan
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(w/o enclosures)